

TAB F

VOLUME 1

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EXHIBITS: 1-17

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CYCLE-CRAFT CO., INC.) CIVIL ACTION
D/B/A BOSTON HARLEY-DAVIDSON/BUELL,) NO. 11402NMG
PLAINTIFF,)
v.)
HARLEY-DAVIDSON MOTOR COMPANY, INC.,)
AND BUELL DISTRIBUTION COMPANY, LLC,)
DEFENDANTS.)

DEPOSITION OF SEAN WALSH

DATE: APRIL 27, 2005

TIME: 10:11 A.M.

PLACE: BINGHAM MCCUTCHEN

150 FEDERAL STREET

BOSTON, MA 02110

MEDEIROS STENO & VIDEO GROUP



"FOR THE TRAVELING LITIGATOR SINCE 1988"

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*MA *CT *NJ *NY *FL

1 identification number on it as well?

2 A: Yes.

3 Q: Can you confirm for us that it matches the
4 vehicle identification on exhibit 2?

5 A: Yes it does.

6 Q: Looking at exhibit 3 under, "Series or
7 Model" do you see, "2003 VRSCA"?

8 A: Yes.

9 Q: Do you know what kind of a model motorcycle
10 that is?

11 A: Yes. That's a V-Rod.

12 Q: From your testimony I understand you did
13 not buy this bike. Is that correct?

14 A: No, I did not.

15 Q: Did you have any contract or agreement to
16 buy that bike?

17 A: No, I did not.

18 Q: Did you ever sign a purchase order for that
19 motorcycle from Cycle-Craft in or around July of
20 2003?

21 A: No, I did not.

22 Q: Did you ever put down a deposit for that
23 motorcycle in 2003?

24 A: No.

1 Q: Did you ever fill out any forms or
2 paperwork related to that motorcycle in 2003?

3 A: No.

4 Q: Did you have any intent to buy that
5 motorcycle or any similar motorcycle at the end of
6 the model year 2003?

7 A: No.

8 Q: Do you have an understanding as to how your
9 name came to be used on an SWR for this motorcycle in
10 2003?

11 A: Yes.

12 Q: How did it come to be used?

13 A: Ron Buchbaum told me that he was going to
14 put my name on this vehicle along with several other
15 employees.

16 Q: For what purpose?

17 A: He was going to SWR the bike, I'm assuming
18 so he could show the bike as sold.

19 Q: And to your knowledge this was done with
20 other employees as well?

21 A: Yes.

22 MR. REHNQUIST: Object to the form.

23 Q: Do you know any of the employees with whom
24 this was done?

1 MR. REHNQUIST: Object to the form. Does
2 he know that it was done or does he know the
3 employees?

4 Q: You can answer the question that's pending
5 which is do you know any of the other employees with
6 whom this was done?

7 MR. REHNQUIST: Object to the form.

8 A: Yes. The only name that I know off the top
9 of my head is Joe Giordano, but there were several
10 people.

11 Q: Is Joe also known as Salvatore Giordano or
12 is that a different Giordano?

13 A: I don't know. I only knew him as Joe.

14 Q: Do you know how many other motorcycles
15 approximately were reported as having been sold by
16 the dealership to employees?

17 MR. REHNQUIST: Objection. Form,
18 foundation.

19 A: I believe it was nine or ten.

20 Q: Do you know who was responsible for
21 submitting the SWRs to the factory reporting these
22 sales in the names of employees?

23 A: I think that was the finance manager. Part
24 of her job was to do that.

1 all the supporting documentation that we would
2 require for the sale of a bike to any person, all the
3 paperwork done in that person's name for each
4 motorcycle.

5 **Q: Did you have an understanding as to who**
6 **would be paying for the bikes?**

7 A: We asked DC Imports to provide us with
8 separate money orders for each motorcycle remitted to
9 the person who is buying that motorcycle.

10 **Q: But did you have an understanding as to**
11 **what entity or entities was putting up the money for**
12 **the bikes?**

13 MR. REHNQUIST: Objection.

14 A: We knew that DC Imports would be sending us
15 the money. We definitely asked them not to have a DC
16 Imports check, to have it specifically represented by
17 the person purchasing the bike.

18 **Q: And again, was that to make it appear as**
19 **though you were complying with the Harley-Davidson**
20 **policy?**

21 MR. REHNQUIST: Object to the form.

22 MS. SMAGULA: Objection.

23 A: It was so that, yes, yes it was. We were
24 very specific with Mike Stevens as to how to fill out

1 all the paperwork.

2 Q: And to your knowledge did anyone from
3 Cycle-Craft suggest to Mr. Stevens or Ms. Lunsford
4 that they could use names of employees or friends and
5 family members of employees as the names for the
6 purchasers?

7 MR. REHNQUIST: Object to the form.

8 A: No, we didn't specify any particular
9 people, just that they have individuals.

10 Q: Showing you what we've marked as exhibit
11 12, can you identify that as a fax from DC Imports to
12 you on July 29, 2003?

13 A: Yes.

14 Q: Can you identify what this fax was?

15 A: This was a fax of the individual money
16 orders for each motorcycle that we were selling.
17 This was proof that the money was on the way.

18 Q: At the time you got this fax or shortly
19 thereafter did you note that the checks were
20 sequentially numbered from the bank?

21 A: No. I never even paid attention to that.

22 Q: Did you have any discussion with anyone at DC
23 Imports about their going to get the checks or obtaining
24 the checks?